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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/000,121	10/31/2001	Paresh L. Nagda	M-8916 US	8976
7590 05/15/2006 MacPherson Kwok Chen & Heid LLP 1762 Technology Drive Suite 226 San Jose, CA 95110			EXAMINER WEBB, JAMISUE A	
			ART UNIT 3629	PAPER NUMBER

DATE MAILED: 05/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/000,121

Applicant(s)

NAGDA ET AL.

Examiner

Jamisue A. Webb

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-42 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Objections

1. Claim 9 is objected to because of the following informalities: Claim 9 recites the phrase “user request comprises a carrier availability report”, is the user request comprise a “request for a” carrier availability report? IF not, it is unclear what the request is for. Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 5, 17, 18 and 30-42 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. Claim 5 recites the limitation "said logic" in line 1. There is insufficient antecedent basis for this limitation in the claim.

5. Claims 17 and 18 recite the limitation "said report" in line 2. There is insufficient antecedent basis for this limitation in the claims.

6. With respect to Claim 30: Claim 30: the phrase “receiving at least one of a demand entry and a carrier entry from said user” is indefinite. Previously in the claim the request is being received from a user, therefore it is unclear if the same user enters in all the information. The same user enters in the request, the demand entry and the carrier entry?

7. Claims 30 and 39 recite the limitation "said entry" in line 7. There is insufficient antecedent basis for this limitation in the claims.

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8. With respect to Claim 35: the phrase “further comprising comparing parameters of demand entry and parameters of said carrier entry” is indefinite. In Claim 30, the demand entry and carrier entry are received from the user in alternative form, i.e. the user only has to enter a demand entry or a carrier entry, not both. Therefore, it is unclear how the parameters from these two entries can be compared if only one is received, or entered.

9. With respect to Claim 37: the phrase “providing a user with at least one of matching demand specifications and matching availability information” is indefinite. It is unclear to the examiner what these are being matched to? Are they matched to each other or some other piece of information?

10. With respect to Claim 42: the phrase “and a wireless connected” is indefinite. It is unclear as to what is wireless. Is it a wireless device, or a wireless modem?

Claim Rejections - 35 USC § 102

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

12. Claims 1-3, 4, 6-19, 26-28, 30-33, 35 and 37-39 are rejected under 35 U.S.C. 102(b) as being anticipated by Hunt et al. (5,835,716).

13. With respect to Claim 1: Hunt discloses the use of an information exchange system comprising:

a. A database (50) coupled to a communications network (10), for storing a demand entry comprising shipping demand specifications (Column 4, lines 27-44, Hunt discloses

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the database is for storing data for the carrier space listed or requested. The examiner considers the carrier space listed to be the carrier entry and the carrier space requested to be the demand entry), wherein the demand entry and carrier entry arrive through the communications network (Column 4, Lines 45-58); and

b. A logic unit coupled to the database, for receiving a user request and at least one of the demand entry or the carrier entry through the communication network (microprocessor 12) and for formulating a response to the user request (Column 4, lines 27-44).

14. With respect to Claim 2: Hunt discloses the use of a partner subsystem (9) with a request database, that is different from the transportation database, which stores demand specification information (See Claims 6-9, Column 4, lines 45-62).

15. With respect to Claim 3: Hunt discloses the logic unit notifies a user when a demand entry or a carrier entry is received (Column 8, lines 41-62).

16. With respect to Claim 4: Hunt discloses the use of a subsystem (8, which forwards the demand entries to the central database). The examiner considers this subsystem to be a form of an enterprise resource planning system.

17. With respect to Claims 6-11, 17, 18, 28: Hunt discloses the use of generating reports using queries (which the examiner considers to be criterion) (Column 9, line 41 to Column 10, line 2). It should be noted that what specific information is on the reports is considered to be non-functional language, which is unrelated to the "system" claim. A system claim is drawn to the structural limitations of the system only, therefore the system would remain the same whether the reports generated contained demand information or carrier information, or were based on date ranges or time frames. The type of information that is printed on the reports is

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deemed non-function descriptive material. The system would remain the same no matter what information is on the reports, thus this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F .2d 1381, 1385, 217 USPQ 401, 404 (Fed.Cir.1983); *In re Lowry*, 32 F .3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

18. With respect to Claim 12: Hunt discloses the shipping demand specification comprises a route (See Claim 1).

19. With respect to Claim 13: Hunt discloses the carrier availability information comprises carrier volume and date/time, which the examiner considers to be cargo dimension, and date of availability (See Claims 1 and 2).

20. With respect to Claim 14: Hunt discloses the processor using a RDB locator, which signals the system operator, or user, when a match has been located (Column 8, lines 53-62).

21. With respect to Claim 15: Hunt discloses the logic unit provides a user with the ability to make capacity based arrangements (See Claim 1).

22. With respect to Claim 16: Hunt discloses the logic unit provides a user with the option to conduct a transaction over the communications network (See Claim 12, Hunt discloses sending a bill or transaction code, therefore the examiner considers this to provide a transaction).

23. With respect to Claim 19: Hunt discloses the user request is entered and therefore stored, therefore the examiner considers this to be an implied request (Claim 1, item f).

24. With respect to Claim 26: Hunt discloses the logic unit formulates the response when a new entry is received (column 8, lines 36-40).

25. With respect to Claim 27: Hunt discloses the logic unit formulates the response at a pre-determined time interval (Column 8, lines 53-56).

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26. With respect to Claim 30: Hunt discloses the use of a method comprising:
- c. Receiving a request from a user comprising a demand entry (See Claim 1, item b);
 - d. Storing entry in a database (Column 4, lines 26-44);
 - e. Using entries to formulate a response to the request (Column 4, lines 26-44).
27. With respect to Claims 31 and 32: Hunt discloses the use of a partner subsystem (9) with a request database, that is different from the transportation database, which stores demand specification information (See Claims 6-9, Column 4, lines 45-62).
28. With respect to Claim 33: Hunt discloses the use of a subsystem (8, which forwards the demand entries to the central database). The examiner considers this subsystem to be a form of an enterprise resource planning system.
29. With respect to Claim 35: Hunt discloses the processor using a RDB locator, which signals the system operator, or user, when a match has been located (Column 8, lines 53-62).
30. With respect to Claim 37: Hunt discloses providing a user with a match of the demand and carrier specifications (Column 4, lines 45-58).
31. With respect to Claim 38: Hunt discloses the use of requests parameters, which the examiner considers to be a form of criterion (Column 8, lines 36-40).
32. With respect to Claim 39: Hunt discloses the shipping demand specification comprises a route (See Claim 1). And the carrier availability information comprises carrier volume and date/time, which the examiner considers to be cargo dimension, and date of availability (See Claims 1 and 2).

Claim Rejections - 35 USC § 103

33. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

34. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

35. Claims 5 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hunt et al. (5,835,716).

36. With respect to Claims 5 and 34: Hunt, as disclosed above for Claims 1 and 30, fails to disclose the logic unit allows a user to define a subgroup within the exchange system, and assign unrestricted access to only members of the subgroup. The examiner takes official notice that the use of defining a group who has unrestricted access to the system is old and well known in the art. Each computer system/network has a group of users, which have administrative rights. Administrative rights on the system or network gives a user unrestricted access to data as well as to the system itself. This is done on any Windows ® network product, such as Windows NT ®. Therefore it would have been old to one having ordinary skill in the art at the time the invention

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was made, to have the system of Hunt, allow a subgroup of users be assigned administrative rights, to have unrestricted access to the system, in order for the subgroup of people to have complete control over the data, for configuration purposes, and for problem solving purposes.

37. Claims 20-25, 29, 36 and 40-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hunt et al. (5,835,716) in view of Nel (US 2003/0036935).

38. With respect to Claims 20 and 40: Hunt, as disclosed above for Claims 1 and 30, fails to disclose the use of a fleet monitoring system which monitors vehicles. Nel discloses the use of an allocating system for freight haulage jobs, which has a fleet monitoring system which uses GPS to locate vehicles (See Figure 1, satellites 30 and 32 with corresponding detailed description). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system of Hunt, to include a fleet monitoring system of Nel, in order to fill excess capacity of a vehicle, at any time during their transportation. (See Nel, abstract)

39. With respect to Claim 21: Nel discloses the logic unit alerts a delivery vehicle when a new demand entry matches a location of the delivery vehicle as determined by the fleet monitoring system (Paragraph 0026 and 0039).

40. With respect to Claim 22: Nel discloses that each of the delivery vehicles contains a GPS unit and a wireless modem that transmits location data for each of the delivery vehicles to the fleet monitoring system (Paragraphs 0027 and 0028).

41. With respect to Claim 23: Nel discloses the wireless modem provides an internet connection to the fleet monitoring system (Paragraphs 0029 and 0030).

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42. With respect to Claim 24: Nel discloses the delivery vehicle contains a portal allowing a driver to see demands from the database (Paragraph 0027-0029, Nel discloses each vehicle has a mobile communications unit which accesses job allocation services provided by the job manager, therefore the examiner considering this to be a portal, which is fully capable of allowing a driver to view demand entries).

43. With respect to Claim 25: Nel discloses the GPS and wireless modem automatically transmits location data for the delivery vehicles to the fleet monitoring system and the logic unit uses the location data in determining whether to send an alert to the delivery vehicle (Paragraphs 0015 and 0026).

44. With respect to Claims 29 and 36: Nel, discloses for each vehicle, the rates are given in the carrier specification (Paragraph 0037) and the matching of demands and carriers are based on bid prices as well as rates (Paragraphs 0006, 0045 and 0047)

45. With respect to Claim 41: Nel discloses alerting a delivery vehicle when the location of the delivery vehicles matches a parameter of a demand entry (Paragraphs 0032-0039).

46. With respect to Claim 42: Nel discloses the delivery vehicles comprise a location determining unit and a wireless connected to a communications network (Paragraphs 0029 and 0030).

Conclusion

47. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Morley et al. (US 2003/0046133) discloses the use of carrier selection based on capacity, Hunt et al. (5,724,524) discloses the use of a method for brokering and exchanging capacities, Kwan discloses the use of a system for selling cargo transportation options over the

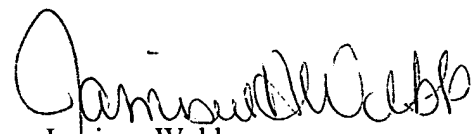
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Internet, Dean et al. (6,232,915) discloses the use of a system for in-route communication for new deliveries, and Jones (6,748,318) discloses the use of a vehicle communication system where the a transportation manager communicates with the vehicle operator en-route.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamisue A. Webb whose telephone number is (571) 272-6811. The examiner can normally be reached on M-F (7:30 - 4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (571) 272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Jamisue Webb
Patent Examiner
Art Unit 3629